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9 **BEFORE THE**  
**RESPIRATORY CARE BOARD**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Statement of Issues Against:

Case No. 1H-2008-138

13 SHARICE LOVETTE POMPEY  
16665 Sirbarton Way  
14 Moreno Valley, CA 92551

**STATEMENT OF ISSUES**

15 Respondent.

16  
17 Complainant alleges:

18 PARTIES

19 1. Stephanie Nunez (Complainant) brings this Statement of Issues solely in  
20 her official capacity as the Executive Officer of the Respiratory Care Board of California.  
21 2. On or about February 22, 2008, the Respiratory Care Board of California  
22 (Board) received an application for a Respiratory Care Practitioner License from SHARICE  
23 LOVETTE POMPEY (Respondent). On or about February 20, 2008, Respondent certified under  
24 penalty of perjury to the truthfulness of all statements, answers, and representations in the  
25 application. The Board denied the application on or about September 25, 2008.

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JURISDICTION

3. This Statement of Issues is brought before the Board, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 3710 of the Code states, in pertinent part, that “The Respiratory Care Board of California, hereafter referred to as the board, shall enforce and administer this chapter [Chapter 8.3, the Respiratory Care Practice Act].”

5. Section 3718 of the Code states: “The board shall issue, deny, suspend, and revoke licenses to practice respiratory care as provided in this chapter.”

6. Section 3750 of the Code states:

“The board may order the denial, suspension or revocation of, or the imposition of probationary conditions upon, a license issued under this chapter, for any of the following causes:

“...

“(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a respiratory care practitioner. The record of conviction or a certified copy thereof shall be conclusive evidence of the conviction.

“...

“(j) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, or duties of a respiratory care practitioner.

“...”

7. Section 3732 of the Code states:

“(a) The board shall investigate an applicant for a license, before a license is issued, in order to determine whether or not the applicant has the qualifications required by this chapter.

“(b) The board may deny an application, or may order the issuance of a license with terms and conditions, for any of the causes specified in

1 this chapter for suspension or revocation of a license, including, but not  
2 limited to, those causes specified in Sections 3750, 3750.5, 3752.5, 3752.6,  
3 3755, 3757, 3760, and 3761.”

4 8. Section 3752 of the Code states,

5 “A plea or verdict of guilty or a conviction following a plea of nolo  
6 contendere made to a charge of any offense which substantially relates to  
7 the qualifications, functions, or duties of a respiratory care practitioner is  
8 deemed to be a conviction within the meaning of this article. The board  
9 shall order the license suspended or revoked, or may decline to issue a  
10 license, when the time for appeal has elapsed, or the judgment of  
11 conviction has been affirmed on appeal or when an order granting  
12 probation is made suspending the imposition of sentence, irrespective of a  
13 subsequent order under Section 1203.4 of the Penal Code allowing the  
14 person to withdraw his or her plea of guilty and to enter a plea of not guilty,  
15 or setting aside the verdict of guilty, or dismissing the accusation,  
16 information, or indictment.”

17 9. Section 3752.5 of the Code states:

18 “For purposes of Division 1.5 (commencing with Section 475), and  
19 this chapter [the Respiratory Care Practice Act], a crime involving bodily  
20 injury or attempted bodily injury shall be considered a crime substantially  
21 related to the qualifications, functions, or duties of a respiratory care  
22 practitioner.”

23 10. Section 3754 of the Code states: “The board may deny an  
24 application for, or issue with terms and conditions, or suspend or revoke, or impose  
25 probationary conditions upon, a license in any decision made after a hearing, as provided  
26 in Section 3753.”

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1 11. California Code of Regulations, title 16, section 1399.370, states, in  
2 pertinent part:

3 “For the purposes of denial, suspension, or revocation of a license, a  
4 crime or act shall be considered to be substantially related to the  
5 qualifications, functions or duties of a respiratory care practitioner, if it  
6 evidences present or potential unfitness of a licensee to perform the  
7 functions authorized by his or her license or in a manner inconsistent with  
8 the public health, safety, or welfare. Such crimes or acts include but are not  
9 limited to those involving the following:

10 (a) Violating or attempting to violate, directly or indirectly, or  
11 assisting or abetting the violation of or conspiring to violation any  
12 provision or term of the Act.

13 (b) Conviction of a crime involving fiscal dishonesty, theft or  
14 larceny.

15 “...”

#### 16 COST RECOVERY

17 12. Section 3753.5, subdivision (a) of the Code states:

18 “In any order issued in resolution of a disciplinary proceeding  
19 before the board, the board or the administrative law judge may direct any  
20 practitioner or applicant found to have committed a violation or violations  
21 of law to pay to the board a sum not to exceed the costs of the investigation  
22 and prosecution of the case.”

23 13. Section 3753.7 of the Code states:

24 “For purposes of the Respiratory Care Practice Act, costs of  
25 prosecution shall include attorney general or other prosecuting attorney  
26 fees, expert witness fees, and other administrative, filing, and service fees.”

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1                   14.     Section 3753.1 of the Code states:

2                   “(a) An administrative disciplinary decision imposing terms of  
3                   probation may include, among other things, a requirement that the  
4                   licensee-probationer pay the monetary costs associated with monitoring the  
5                   probation.

6                   “...”

7                   FIRST CAUSE FOR DENIAL OF LICENSE

8                   (Conviction of Crimes Substantially Related to the Qualifications,  
                    Functions, or Duties of a Respiratory Care Practitioner)

9                   15.     Respondent’s application is subject to denial under section 3750, as  
10                  defined by section 3750, subdivision (d), and 3752.5 of the Code, and Title 16 of the  
11                  California Code of Regulations, section 1399.370, in that respondent has been convicted  
12                  of crimes substantially related to the qualifications, functions, or duties of a Respiratory  
13                  Care Practitioner, as more particularly described in paragraphs 16 through 27, below.

14                  16.     On or about November 27, 1991, respondent was arrested for a  
15                  violation of Penal Code section 459 [burglary].

16                  17.     On or about December 3, 1991, respondent was charged in the case  
17                  entitled *People of the State of California v. Sharice Lovette Pompey*, Los Angeles Superior  
18                  Court Case 91M06155, with the criminal count of burglary in violation of Penal Code  
19                  section 459, a misdemeanor.

20                  18.     On or about January 21, 1992, respondent plead nolo contendere to  
21                  a violation of Penal Code section 459 [burglary], in the case entitled *People of the State of*  
22                  *California v. Sharice Lovette Pompey*, Los Angeles Superior Court Case 91M06155.

23                  19.     On or about January 21, 1992, the Court sentenced respondent in  
24                  Case 91M06155 to three (3) years summary probation and pay a fine with penalty  
25                  assessments totaling \$ 810.00.

26                  20.     On or about January 1, 1994, respondent was arrested for a  
27                  violation of Penal Code section 459 [burglary].

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1                   21.     On or about January 3, 1994, respondent was charged in the case  
2 entitled *People of the State of California v. Sharice Lovette Pompey*, Los Angeles Superior  
3 Court Case 94M00011, with the following criminal counts:

4                   (a) Burglary in violation of Penal Code section 459, a misdemeanor;

5                   (b) Theft of property in violation of Penal Code section 484,  
6 subdivision (a), a misdemeanor; and

7                   (c) Contributing to the delinquency of a minor in violation of Penal  
8 Code section 272, a misdemeanor.

9                   22.     On or about January 4, 1994, respondent plead nolo contendere to a  
10 violation of Penal Code section 459 [burglary], a violation of Penal Code section 484,  
11 subdivision (a) [theft of property], and a violation of Penal Code section 272 [contributing  
12 to the delinquency of a minor] in the case entitled *People of the State of California v.*  
13 *Sharice Lovette Pompey*, Los Angeles Superior Court Case 94M00011.

14                   23.     On or about January 4, 1994, the Court sentenced respondent in  
15 Case 94M00011 to three (3) years summary probation and serve thirty (30) days in the  
16 Los Angeles County Jail.

17                   24.     On or about May 16, 1999, respondent was arrested for a  
18 violation of Penal Code section 245, subdivision (a)(1) [assault with a deadly weapon  
19 likely to produce great bodily harm].

20                   25.     On or about May 25, 1999, respondent was charged in the case  
21 entitled *People of the State of California v. Sharice Lovette Pompey*, Riverside Superior  
22 Court Case RIM383574, with the criminal count of assault with a deadly weapon likely to  
23 produce great bodily harm in violation of Penal Code section 245 (a)(1), a misdemeanor.

24                   26.     On or about June 16, 1999, respondent plead guilty to a  
25 violation of Penal Code section 245 (a)(1) [assault with a deadly weapon likely to produce  
26 great bodily harm] in the case entitled *People of the State of California v. Sharice Lovette*  
27 *Pompey*, Riverside Superior Court Case RIM383574.

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1                   27.     On or about June 16, 1999, the Court sentenced respondent in Case  
2 RIM383574 to three (3) years summary probation with terms and forty-five (45) days in  
3 the Riverside County Jail.

4                             SECOND CAUSE FOR DENIAL OF LICENSE

5                             (Conviction of Crimes Involving Theft or Larceny)

6                   28.     Respondent's application is further subject to denial under  
7 Government Code section 3750, subdivision (d) as defined by California Code of  
8 Regulations section 1399, subdivision (b), in that she has been convicted of a crime  
9 involving theft or larceny, as more particularly described in paragraphs 16 through 23,  
10 above, which are hereby incorporated by reference and realleged as if fully set forth herein.

11                            THIRD CAUSE FOR DENIAL OF LICENSE

12                            (Commission of a Fraudulent, Dishonest or Corrupt Act)

13                   29.     Respondent's application is further subject to denial under  
14 Government Code section 3750, subdivision (j), in that she has committed a fraudulent,  
15 dishonest or corrupt act or acts substantially related to the qualifications, functions, or  
16 duties of a respiratory care practitioner, as more particularly described in paragraphs 16  
17 through 23, above, which are hereby incorporated by reference and realleged as if fully set  
18 forth herein.

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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board issue a decision:

1. Denying the application of respondent for a Respiratory Care Practitioner License;
2. Directing respondent to pay the Respiratory Care Board of California the costs of the investigation and enforcement of this case, and if placed on probation, the costs of probation monitoring; and
3. Taking such other and further action as deemed necessary and proper.

DATED: December 16, 2008

Original signed by Liane Zimmerman for:  
STEPHANIE NUNEZ  
Executive Officer  
Respiratory Care Board of California  
State of California  
Complainant

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